

EXHIBIT A

ORIGINAL

Page 1

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X
4 RAYMOND ANTHONY JOAO and
5 ROBERT RICHARD BOCK,
6 Plaintiffs,
7 - against -

8 SLEEPY HOLLOW BANK and
9 JACK HENRY & ASSOCIATES, INC.,
10 Defendants.
11 -----X

12 50 Main Street
13 White Plains, New York
14 July 8, 2004
15 9:15 a.m.

16 Examination Before Trial of RAYMOND
17 ANTHONY JOAO, Plaintiff, Videotaped and held before
18 a Notary Public of the State of New York at the
19 above date, time and place.
20

21 **Exhibit A**

22
23 DOCUTRAN
24 388 Tarrytown Road
25 White Plains, New York 10601
(914) 949-4545

1 Q. Can you tell me what it means?

2 A. I don't recall.

3 Q. You use a number of terms in claim 108. First
4 of all it says, claims transaction security apparatus.
5 Can you tell us what that apparatus is?

6 A. Are you asking me at the time I filed the
7 application in 1996? Or are you asking me today?

8 Q. I'm asking you today?

9 A. Well, I'm not a person having an ordinary skill
10 in the art. In order for me to tell you what it means I
11 would have to study the specification, file history and
12 for any terms that I did not define I would have to refer
13 to a dictionary. I cannot do that for you right now
14 without doing that.

15 Q. You'd have to study the claim language itself?

16 A. I would have to study the specification and
17 application, file history and for words that I did not
18 define I would have to refer to a dictionary.

19 Q. Why do you say You are not a person skilled in
20 the art?

21 A. Because I'm an inventor. I'm a person of
22 extraordinary skill in the art.

23 Q. You're more skilled in the art than, than
24 someone else that you would consider to be just plain old
25 skilled in the art?

1 patent, in order for this patent to have been issued the
2 patent office deemed it is enabling and there is a
3 written description of the invention such that someone
4 skilled in the art could from reading the application
5 could make and use the invention.

6 Q. Reading the application or from reading the
7 patent issued?

8 A. What's the difference?

9 Q. I don't know, if there's no difference tell me
10 there's no difference.

11 A. Well, the application is what is, as a patent
12 attorney is the application is what the patent office
13 looks at when they deem that it says all of the
14 requirements of the relevent statutes it issues the
15 patent. So I would say it's the application.

16 Q. Can you can tell me in connection, in claim 108,
17 can you tell me what the memory device is that is
18 referenced in the second line of that claim?

19 A. Again, I'm not a person having ordinary skill in
20 the art. In order to do that I would have to review the
21 specification, the file history and for terms that are
22 not defined I'd have to refer to a dictionary.

23 Q. Do you recall, let's go back to the time you
24 filed the application, then you drew a distinction
25 between then and now. Can you tell us what you intended

1 letter.

2 Q. Way before?

3 A. Mr. Bock has an account at Sleepy Hollow Bank.

4 He brought it to my attention.

5 Q. So in addition to you saw the website and you

6 saw the brochure you also got some information from Mr.

7 Bock?

8 A. Correct.

9 Q. What did Mr. Bock tell you when he brought this
10 to your attention?

11 A. He handed me the brochure.

12 Q. And said what?

13 A. I don't recall.

14 Q. You don't recall anything he said other than
15 handing you the brochure?

16 A. Mr. Bock is not a trained patent attorney. No I
17 don't recall what he said to me. He gave me the
18 brochure.

19 Q. Would you regard Mr. Bock as a person skilled in
20 the art?

21 A. I would say that Mr. Bock is an inventor and he
22 is extraordinarily skilled in the art, not a person of
23 ordinary skill in the art.

24 Q. So he's like you, more than ordinarily skilled in
25 the art?

1 A. That's correct.

2 Q. But you don't remember what you and Mr. Bock
3 discussed in connection with Sleepy Hollow Bank's alleged
4 infringement?

5 A. No.

6 Q. I think I asked you this question before but I
7 don't think I got an answer to it. Do you know how the
8 Sleepy Hollow Bank stopped payment function works?

9 A. I think I did answer that question before.

10 Q. Is the answer yes or no?

11 A. The answer is we have not had discovery yet on
12 the issue of infringement, so no, I do not have that
13 information to answer that question.

14 Q. You don't know how their functionality works and
15 you don't remember what your Patent does but you allege
16 that the bank, whatever the bank is doing it infringes
17 your patent?

18 A. Correct. We made a good faith belief, I wrote a
19 letter to Sleepy Hollow Bank, they sent me back an answer
20 that did not deny infringement.

21 Q. What did they say?

22 A. The pointed the finger at Jack Henry and told me
23 to talk to them.

24 Q. Did you communicate with Jack Henry?

25 A. No, wrote a letter back to Sleepy Hollow Bank.

1 I would say that examples of those would be included in
2 any of the descriptions referring, at least in any of the
3 descriptions referring to those figures.

4 Q. Let's talk about figure 4, start there. Explain
5 to me if you would you what figure 4 says about
6 performing an on-line stop payment function?

7 A. I don't recall. I would have to study the
8 specification to basically give you that answer.

9 Q. You just told me a minute ago that figure 4
10 showed how to do a stop payment?

11 A. I showed you that figure 4 example as well as
12 description of that would tell, would describe some of
13 how to do a stop payment.

14 Q. Tell me what figure 4 says about how to do a
15 stop payment?

16 A. I can't do that. I don't recall what I wrote in
17 this document and how it refers to different elements of
18 figure 4.

19 Q. Can you tell me what any of the things listed on
20 figure 4, any of the boxes shown, what any of those
21 things are?

22 A. Again I'm not a person of ordinary skill in the
23 art. I would have to study the specification to give you
24 a complete answer.

25 Q. Would you expect a person of ordinary skill in

1 Q. Did you define those words for the purposes of
2 claim 94 to 105 or the entire patent?

3 A. For the purpose of 94 to 105, 105 for the
4 purpose of the whole patent.

5 Q. So for both?

6 A. For both. Do you want me to continue looking?

7 Q. Let me ask you a couple questions. Why is it
8 necessary for you to look in the claim history to find
9 those definitions? Do those definitions appear anywhere
10 in the issued patent itself?

11 A. I don't recall.

12 Q. Are they supposed to?

13 A. No. I can make my own definitions.

14 Q. You can make your own definitions?

15 A. As long as there's support in the patent
16 application, yes.

17 Q. In your review, if the definitions don't have to
18 be contained in the issued patent itself?

19 A. The definitions don't have to be in the issued
20 patent as long as they are supported by the patent and
21 it's not inconsistent.

22 Q. Okay. You have sort of talked earlier about a
23 person of ordinary skill in the art, right? Am I saying
24 that right?

25 A. I said I was not a person of ordinary skill in

1 Q. Okay. If instead of picking up the phone and
2 calling and speaking with a human being on the other end
3 the bank customer turns on his personal computer at home
4 through a modem the computer connects with a modem in the
5 bank connected to the bank's computer and the customer
6 enters an order that says, stop payment check number 419
7 payable to Macson Moving in the amount of \$60 and pushes,
8 enter. Does that process infringe your patent?

9 MR. FRIED: Objection as form.

10 A. I can't answer that question until I know what
11 the claim means. I can't do that until I have gone
12 through the specification, the file history. Remember
13 I'm not a person of ordinary skill in the art.

14 Q. You're better than that?

15 A. I'm not saying I'm better than that, I'm an
16 inventor, I'm somebody with extraordinary skill in the
17 art.

18 Q. Even with your Extraordinary skill of the art
19 you can't tell me based on the fact that you wrote this
20 patent and you have alleged infringement of this patent,
21 you can't tell me whether or not the hypothetical I just
22 described for you infringes your patent?

23 A. I'm telling you I cannot give you an answer
24 until I have had the opportunity to study this patent,
25 file history and if necessary refer to a dictionary to

1 was corrected or there was some error?

2 A. Well, if there was a certificate of correction
3 there would be a request for certificate of correction in
4 the file history and I would need to probably see that in
5 order to answer your question.

6 Q. Is it your testimony that you can't tell us
7 today what authorization request is, what that term means
8 in claim 121, simply by referring to the claim and the
9 specification?

10 A. Again, I'm not a person of ordinary skill in the
11 art, I would need to study specification, file history
12 and if necessary a dictionary in ordinary to interpret
13 the meaning of any claimed term.

14 Q. Would you need to study, would you need to refer
15 to a dictionary to tell us what, authorization request
16 means?

17 A. Again if I have to repeat my answer I will.

18 Q. I haven't asked you that question yet. Do you
19 need to refer to a dictionary in ordinary to tell us
20 what, authorization request means?

21 A. Not if it's discernable from my specification.

22 Q. Okay, let's look at the specification. Let's
23 just take a few minutes and see, you took a few minutes
24 earlier today to look through part of the file history.
25 Where does the specifications start? In Exhibit 1?

1 dependent claims that make reference to claim 108?

2 A. That is correct.

3 Q. In other words, all the words in there, I'm not
4 talking about A's and the's another than that these are
5 all the words you would need to refer to the entirety of
6 the patent and the application history and maybe a
7 dictionary to tell me what they mean?

8 A. Correct.

9 Q. None of them you can tell me what they mean just
10 based on, as we're sitting here and we happen to both
11 speak the English language?

12 A. Again, if you're asking me to interpret a patent
13 document I would have to, I'm not a person of ordinary
14 skill in the art. I would have to look at this document,
15 study it, study the file history and if necessary refer
16 to a dictionary.

17 Q. I know you keep telling me you are not a person
18 of ordinary skill in the art and I think I know what that
19 means, but I need to understand for sure that you're
20 telling me that there are no words in these claims that
21 you can define for me or tell me what they mean just
22 based on what's here without referring to the entirety of
23 the claims, the specifications, the file history and
24 maybe a dictionary?

25 MR. FRIED: Objection to form.

1 that's assisting your lawyer, Mr. Fried, in terms of
2 construing or interpreting your Patent?

3 MR. FRIED: Same objection.

4 A. I don't have any, I'm not aware of anybody.

5 Q. You already told me you didn't get an opinion
6 from any other patent lawyer about the interpretation of
7 your patent or about infringement before you filed this
8 lawsuit?

9 A. That's correct.

10 Q. You have referred several times to the fact that
11 you're not a person with ordinary skill in the art?

12 A. Person not having ordinary skill in the art.

13 Q. I'm sorry, make sure I say this right. You're a
14 person not having ordinary skill in the art, is that
15 right?

16 A. I'm a person who does not have ordinary skill in
17 the art, I have extraordinary skill in the art, I'm an
18 inventor.

19 Q. What qualifications, background experience or
20 training would a person who has ordinary skill in the art
21 need?

22 A. I would think somebody with a fairly good
23 understanding of banking systems, computers, how banks
24 work.

25 Q. Good understanding of banking systems, computers